

November 30, 2000

IN RE: DOCKET NO. 2000-457-C – **AM-TEL South Carolina, LLC** -
Application for a Certificate of Public Convenience and Necessity to
provide Local Exchange telecommunications services the State of SC

**COPY OF TESTIMONY OF L. B. SPEARMAN ON BEHALF OF THE
SOUTH CAROLINA TELEPHONE COALITION HAS BEEN
DISTRIBUTED TO THE FOLLOWING:**

E. Coates

Legal (2)

Exec. Director

Manager, Utils Dept.

Audit (2)

Commissioners (7)

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MCNAIR LAW FIRM, P.A.

ATTORNEYS AND COUNSELORS AT LAW

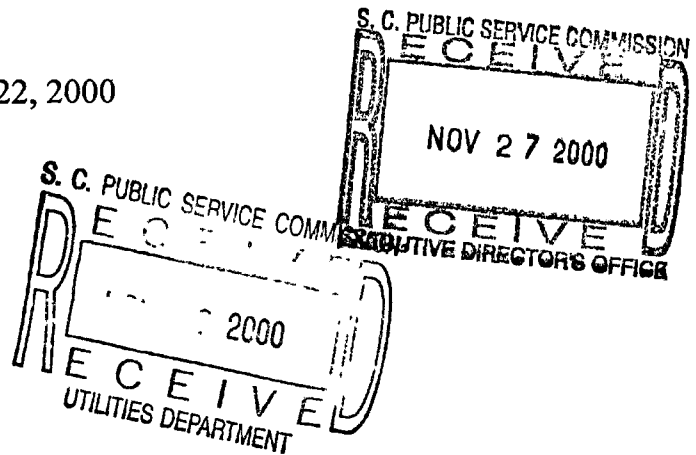
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November 22, 2000

Mr. Gary E. Walsh
Executive Director
South Carolina Public Service Commission
Koger Center, Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210



Re: Application AM-TEL South Carolina, LLC (Docket No. 2000-457-C)

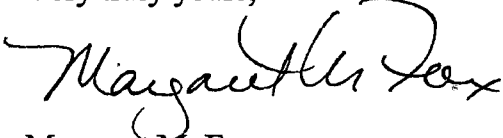
Dear Mr. Walsh:

Please find enclosed for filing on behalf of the South Carolina Telephone Coalition ("SCTC") an original and twenty-five (25) copies of the testimony of L.B. Spearman in the above-referenced docket. This testimony is being filed pursuant to the Commission's Order Establishing Prefiling Deadlines. By copy of this letter, I am serving counsel of record for the Applicant with a copy of the testimony.

Presently, the SCTC has a Motion to Intervene Out of Time pending before the Commission. The SCTC is attempting to resolve this matter with the Applicant by way of the parties signing a Stipulation and filing it with the Commission.

Should you have any questions with respect to this matter, please do not hesitate to contact me.

Very truly yours,


Margaret M. Fox

Enclosures

cc: John D. McLeod, Esquire

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and audit
ACCEPTED FOR PROCESSING - 2019 November 20 10:28 AM - SCPSC - 2000-457-C - Page 2 of 10

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2000-457-C

POSTED
11-30-00

S. C. PUBLIC SERVICE COMMISSION
RECEIVE
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RECEIVE
EXECUTIVE DIRECTOR'S OFFICE

Re: Application of AM-TEL South Carolina, LLC)
for a Certificate of Public Convenience)
and Necessity to Provide Local Exchange)
Telecommunications Services in the State of)
South Carolina)
_____)

TESTIMONY OF
L. B. SPEARMAN

S. C. PUBLIC SERVICE COMMISSION
RECEIVED
NOV 25 2000
REGULATORY DEPARTMENT

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is L. B. Spearman. My business address is 1660 Juniper Springs Road, Gilbert, South Carolina 29054.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am Manager - Regulatory & External Affairs for Pond Branch Telephone Company and for PBT Communications, Inc.

Q. PLEASE BRIEFLY OUTLINE YOUR EDUCATION, TRAINING, AND EXPERIENCE IN THE TELEPHONE INDUSTRY.

A. I received a Bachelor of Science Degree in General Business Administration from Lander University in May 1980. I received a Masters Degree from Clemson University in May of 1983. I was employed by the South Carolina Public Service Commission from 1984 until 1988, when I assumed my current position.

I am responsible for all regulatory matters of the company. I have served on several South Carolina Telephone Association committees, as well as national committees dealing with telecommunications matters.

RETURN DATE: _____
SERVICE: OK Des

Q. FOR WHOM ARE YOU TESTIFYING IN THIS MATTER?

A. I am testifying on behalf of the South Carolina Telephone Coalition ("SCTC"), a coalition of independent local exchange telephone companies ("LECs") organized and doing business under the laws of the State of South Carolina.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present the SCTC's concerns regarding the Application of AM-TEL South Carolina, LLC ("AM-TEL") for authority to provide local exchange telecommunications service throughout the State of South Carolina. The SCTC opposes AM-TEL's application as written. The SCTC believes that AM-TEL should be required to set forth with particularity the proposed geographic territory to be served, as opposed to a more general request for "statewide" authority. The SCTC also believes it is inappropriate to permit carriers to provide local exchange telecommunications in rural telephone company areas at this time. The SCTC further requests that the Commission take notice of the fact that statewide certification of AM-TEL or any other competitive local exchange carrier does not, in itself, impinge upon the federal rights granted to rural telephone companies and to telecommunications customers in general by the Act. There are specific rights and procedures, in particular those set forth in Section 251(f) of the Act, that must be followed before any competitive local exchange carrier may offer particular services to customers located in rural telephone company areas.

Q. WOULD THE RELIEF GRANTED TO AT&T IN ORDER NO. 96-494 BE APPROPRIATE FOR AM-TEL?

A. No. In Docket No. 96-073-C, the Commission decided that statewide certification was appropriate for AT&T, provided that AT&T would not provide local service to any

customer located within the service area of a rural telephone company without following the specific procedures set forth by the Commission in Order No. 96-494. The Commission held that competition for local services is in the public interest in non-rural areas, but specifically made no finding as to whether competition for local services is in the public interest for the rural areas of South Carolina. The SCTC believes that AM-TEL is not in the same position as AT&T. First, AT&T's application for local service was filed and heard by the Commission before the enactment of amended S.C. Code Ann. § 58-9-280. Section 58-9-280(B) provides that an applicant proposing to furnish local telephone service in the service territory of an incumbent LEC must set forth with particularity the proposed geographic territory to be served. The SCTC respectfully submits that a general application for statewide authority does not meet this requirement. In addition, AT&T has been a facilities-based certificated interexchange carrier ("IXC") in South Carolina for many years. Unlike AM-TEL, AT&T owns substantial facilities and employs numerous people throughout South Carolina. Clearly, the Commission has a long history of regulating AT&T and is, therefore, more familiar with the operations and business practices of AT&T than it is with AM-TEL. AT&T's pervasive presence in South Carolina and the Commission's familiarity with AT&T contributed to the Commission's finding that AT&T has the managerial, financial, and technological ability to provide local service throughout South Carolina.

While the SCTC recognizes the necessity of opening up local exchange telecommunications markets to competition, the federal Telecommunications Act of 1996 ("Federal Act") contains many provisions designed to protect customers in rural areas. In fact, an overriding policy goal of the Federal Act is to ensure the continuing quality and

availability of affordable local exchange telecommunications services to all customers. The SCTC is concerned that the protections and policies embodied in the Federal Act will be obscured, and perhaps circumvented, if new entrants are granted statewide certificates to provide local service, even with the rural customer protections provided by the Commission with respect to AT&T in Order No. 96-494.

Q. IN WHAT WAY IS AM-TEL'S REQUEST IMPACTED BY THE FEDERAL ACT?

A. The Federal Act empowers states to consider the impact of local competition on rural markets. It does this in several ways, including:

- 1) an initial exemption from interconnection for rural telephone companies;
- 2) a suspension and modification process for certain telephone companies;
- 3) a provision allowing states to require companies to offer service to an entire rural service area; and
- 4) a provision allowing states to designate a single carrier of last resort in a rural area.

AM-TEL has not specified the markets it intends to serve. AM-TEL's request would defeat the market entry process contemplated by the Federal Act by not allowing the South Carolina Public Service Commission ("Commission") to examine the public interest impact of local competition on a market-by-market basis.

Q. WHY IS IT NECESSARY THAT AN APPLICANT SET FORTH WITH PARTICULARITY THE GEOGRAPHIC SERVICE AREA IT PROPOSES TO SERVE?

A. The Federal Act imposes on all incumbent LECs the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the LEC's

network for the transmission and routing of telephone exchange service and exchange access. [Federal Act § 251(c)(2).] The Federal Act also provides that incumbent LECs must offer telecommunications service for resale. [Federal Act § 251(c)(4)]. The Federal Act also, however, contains important exemption, suspension and modification provisions for rural telephone companies and small LECs with respect to interconnection, resale, and other requirements. All of these provisions apply to the companies which make up the South Carolina Telephone Coalition. For example, each SCTC Company is exempt from the interconnection requirements of the Federal Act until "such company has received a bona fide request for interconnection, services, or network elements, and . . . the State commission determines . . . that such request is not unduly economically burdensome, is technically feasible, and is consistent with [universal service principles]." [Federal Act § 251(f)(1)(A).] In addition, even after a bona fide request has been received and the commission has determined that the automatic exemption should be lifted, any LEC having less than 2% of the Nation's access lines (herein called a small LEC) may petition the Commission for a suspension or modification of the application of the interconnection requirement. Should the Commission determine that such suspension or modification is necessary to avoid a significant adverse economic impact on users of telecommunications services generally; to avoid imposing a requirement that is unduly economically burdensome; or to avoid imposing a requirement that is technically infeasible; and is consistent with the public interest, convenience, and necessity, then the Commission must grant such petition to the extent that, and for such duration as the Commission deems appropriate. [Federal Act § 251(f)(2)]. If the Commission were to grant AM-TEL a statewide Certificate to provide local service, the Commission may surrender its ability to

ensure continued quality service for rural customers. This would adversely impact the public interest.

Q. HOW SHOULD AN APPLICANT DEFINE ITS PROPOSED SERVICE AREA?

- A. In order for the Commission to make the appropriate public interest findings as prescribed by the Federal Act, these geographic areas should coincide with the service areas of local exchange telephone companies currently operating in the State. In the case of rural telephone companies, the "service area" should be defined as the rural telephone company's study area.

Q. WHAT OTHER CONCERNS DOES THE SCTC HAVE?

- A. The SCTC is concerned that, if the Commission grants statewide authority to AM-TEL, some other important provisions of the Federal Act may be overlooked. For example, § 253(f) of the Federal Act allows the State Commission to require a telecommunications company seeking to providing local service in a rural area to meet the requirements of an Eligible Telecommunications Carrier, i.e., essentially to offer basic local services throughout the entire service area for which it seeks certification. This provision is intended to deter "cherry-picking" in rural areas, which could have a devastating effect on the rural LEC's customers, who would probably be forced to pay higher rates as a result. This determination is an important policy decision which must be made by the Commission up front with respect to rural areas in general and with respect to each particular rural area. Approving AM-TEL's application without determining or reserving this issue with respect to the rural areas of the State could lead to a situation where AM-TEL "cherry-picks" the most profitable customers throughout the State without any obligation to serve the unprofitable or

lower-profit-margin customers. Such a practice would have a severe adverse impact on small local exchange carriers and their customers.

Q. WHAT WOULD THE SCTC REQUEST THAT THE COMMISSION DO IN THIS PROCEEDING?

A. The SCTC would respectfully request that the Commission deny AM-TEL's application and require AM-TEL to refile its application for a certificate, setting forth the particular geographic areas which AM-TEL proposes to serve.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

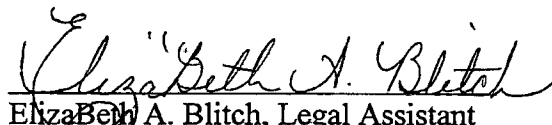
Docket No. 2000-457-C

In Re: Application of AM-TEL South Carolina, LLC)
for a Certificate of Public Convenience)
and Necessity to Provide Local Exchange)
Telecommunications Services)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the
prefiled Testimony of L.B. Spearman upon the following parties of record by causing said copy
to be deposited with the United States Mail, first class postage prepaid to:

John D. McLeod, Esquire
Post Office Drawer 30
Winnsboro, South Carolina 29180.


ElizaBeth A. Blitch, Legal Assistant
McNAIR LAW FIRM, P.A.
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Columbia, South Carolina 29211
(803) 799-9800

November 22, 2000

Columbia, South Carolina